

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

WILLIAM M. HENSLEY,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-1177

JO ANNE B. BARNHART,
Commissioner of the Social
Security Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order entered on July 21, 2004, and filed in this case on November 1, 2004, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and recommendation. Magistrate Judge VanDervort submitted his proposed findings and recommendation on October 20, 2005. In that Proposed Findings and Recommendation, the magistrate judge recommended that this court (1) deny the plaintiff's Motion for Judgment on the Pleadings, (2) grant the defendant's Motion for Judgment on the Pleadings, (3) affirm the final decision of the Commissioner, and (4) dismiss this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. No party has filed objections within the requisite period, and the failure of any party to file such

objections constitutes a waiver of such party's right to a de novo review by this court. Thomas v. Arn, 474 U.S. 140 (1985); Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby (1) **DENIES** plaintiff's Motion for Judgment on the Pleadings (Doc. No. 10), (2) **GRANTS** defendant's Motion for Judgment on the Pleadings (Doc. No. 14), (3) **AFFIRMS** the final decision of the Commissioner, and (4) **DISMISSES** this matter from the court's docket.

The Clerk is directed to forward a certified copy of this memorandum opinion and order to all counsel of record and to Magistrate Judge VanDervort.

IT IS SO ORDERED this 21st day of November, 2005.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
United States District Judge